



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 21-4

February 15, 2022

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: MDTC No. 3 and MDTC No. 5, each filed with the Department on March 1, 2021, to become effective April 1, 2021, by Taconic Telephone Corp. d/b/a Consolidated Communications

ORDER ON MOTION FOR APPROVAL OF SETTLEMENT

I. INTRODUCTION AND PROCEDURAL HISTORY

In this Order, the Department of Telecommunications and Cable ("Department") grants the Joint Motion for Approval of Settlement Agreement ("Motion") filed by Taconic Telcom Corp. d/b/a Consolidated Communications Long Distance and Taconic Telephone Corp. d/b/a Consolidated Communications (collectively, "the Company") and the Department's Settlement Intervention Staff (collectively, the "Settling Parties") in this proceeding. The Department accepts and adopts the settlement agreement proposed by the Settling Parties and attached to the Motion ("Settlement Agreement").

The Company, as a telecommunications services provider in Massachusetts, is required to maintain a tariff covering such services with the Department. G.L. c. 159, § 19. On March 1, 2021, the Company filed tariffs with the Department proposing, respectively, to (1) increase Taconic Telcom Corp.'s Voice Advantage and Voice Advantage II In-State Calling Plans by \$0.50 ("MDTC No. 3") and (2) increase Taconic Telephone Corp.'s residential access line rates by \$2.00 and increase its Voice Advantage and Voice Advantage II bundles by \$2.50 ("MDTC No. 5") (collectively, the "Tariffs"). The Company proposed an effective date of April 1, 2021, for the Tariffs. Letter from Michael Shultz, Sr. Vice President, Consolidated Commc'ns, to Shonda D. Green, Sec'y, Dep't (Feb. 26, 2021) (for MDTC No. 3); Letter from Michael Shultz,

Sr. Vice President, Consolidated Commc'ns, to Shonda D. Green, Sec'y, Dep't (Feb. 26, 2021) (for MDTC No. 5).

On March 31, 2021, the Department opened an investigation into the propriety of the rates and charges set forth in the Tariffs and suspended the operation of those rates and charges until October 1, 2021.¹ *In re Consolidated Commc'ns*, D.T.C. 21-4, *Order Opening Investigation* (Mar. 31, 2021). On August 12, 2021, the Department issued its first set of information requests to the Company.² On the same day, the Department issued a Notice of Public Hearing announcing a public hearing on the Tariffs, soliciting written comments by September 15, 2021, and offering the opportunity for intervention in the proceeding ("Notice"). The Company published the Notice in the *Berkshire Eagle* on August 19, 2021, and, pursuant to Department order, published a revised date for the public hearing, September 28, 2021, in the *Berkshire Eagle* on August 28-29, 2021. *See* D.T.C. 21-4, *Notice of Change in Public Hearing Date* (Aug. 25, 2021); D.T.C. 21-4, *Order of Notice* (Aug. 25, 2021). On September 28, 2021, the Department held the public hearing. *See* G.L. c. 159, § 20. On November 1, 2021, the Department issued a second set of information requests to the Company. On November 30, 2021, the Department notified the parties that in accordance with 207 C.M.R. § 1.02(9)(b), it had appointed three staff from the Department to serve as Settlement Intervention Staff in this proceeding. D.T.C. 21-4, *Notice to Parties* (Nov. 30, 2021).

¹ On August 31, 2021, the Department extended the suspension of the Tariffs. D.T.C. 21-4, *Order Extending Rate Suspension* (Aug. 31, 2021).

² The Company's responses to Department information requests will be referenced herein as "D.T.C. 1-1" through "D.T.C. 1-11" and "D.T.C. 2-1" through "D.T.C. 2-6."

The Department received no public comments on this matter during the public hearing and received no written comments on this matter. The Department did not receive any intervention requests in this proceeding.

II. STANDARD OF REVIEW

All charges made, demanded, or received by any common carrier for any service rendered or performed in the conduct of its common carrier business shall be just and reasonable. G.L. c. 159, § 17. The Department may change or modify a common carrier's charges contained in its tariff. *Id.* In assessing an offer of settlement, the Department must find that a just and reasonable outcome will result. *See, e.g., In re Time Warner Cable*, D.T.C. 13-10, *Order* at 4-5 (Nov. 14, 2016); *In re Cape Org. for the Rights of the Disabled*, D.P.U./D.T.E. 96-118, *Order* at 7 (Apr. 8, 1998); *In re Essex County Gas Co.*, D.P.U. 96-70, *Order* at 5-6 (Sept. 27, 1996). The Department bases this finding on its review of the record and its consideration of whether the proposed settlement is consistent with applicable law, Department precedent, and the public interest. *Id.*

III. ANALYSIS AND FINDINGS

The Department finds that the Settlement Agreement is consistent with applicable law, Department precedent, and the public interest. Accordingly, the Department grants the Motion. Applicable law and Department precedent require the Company's rates to be just and reasonable. G.L. c. 159, § 17. After reviewing the Company's filings and discovery responses and the Settlement Agreement, the Department determines that the rates in the Tariffs are just and reasonable. The rate increases in the Tariffs will help offset the Company's continued reduction in federal support for the subject services. *See* D.T.C. 1-8; D.T.C. 2-6; 47 C.F.R. §§ 51.915, 54.312. Even though these reductions have been ongoing for several years due to actions by the

Federal Communications Commission, the Company has not increased its residential access line rate in MDTC No. 5 in approximately 30 years. D.T.C. 1-4; D.T.C. 2-6. In light of this, a \$2.00 increase for this service is reasonable and will produce a just and reasonable rate. In addition, there is no evidence in the record that the rate increases are not in the public interest as the Department received no intervention requests and no comments opposing the Company's requested rates. Given this and the reduction in federal support referenced above, the Department finds that the Settlement Agreement is consistent with the public interest.

In sum, upon review of the record in this proceeding, the Department finds that the Settlement Agreement will result in just and reasonable charges in accordance with applicable law, Department precedent, and the public interest. Therefore, the Department grants the Motion and approves the Settlement Agreement.

IV. ORDER

Accordingly, after due notice, hearing, and consideration, it is:

ORDERED: That the Motion is GRANTED; and it is

FURTHER ORDERED: That the Department ACCEPTS and ADOPTS the Settlement Agreement; and it is

FURTHER ORDERED: That the Company and the Department comply with the terms of the Settlement Agreement, subject to the authority of the Department to enforce said terms; and it is

FURTHER ORDERED: That the Department's suspension of the operation of the rates and charges set forth in the Tariffs is lifted in accordance with the Settlement Agreement and this Order.

By Order of the Department,



Karen Charles Peterson, Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.